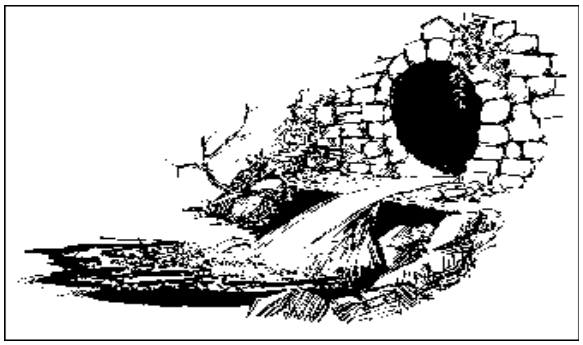
Why the proposed amendments are needed?

IDEM needs to stop issuing permits that put more sewage in our streams!



Currently, IDEM issues permits that allow new housing developments and commercial operations to hook-up to overflowing community sewer systems. IDEM justifies its action by ignoring the impact of rainfall on sewer systems that are designed to collect both rain and sewage. These systems are known as combined sewer systems. IDEM bases its decisions for these systems on the best situation - dry-weather conditions.

In many of Indiana's 106 communities with combined sewer systems, the system overflows in just a light rain. When the system is overflowing, the additional sewage directly results in more sewage in our streams. In essence, IDEM is allowing more sewage into the sewer despite the damage to water quality and the clear threat to our health from parasites, viruses and bacteria result from the combined sewer overflows (CSOs).

IDEM issues these permits despite mandating that CSO communities develop long term control plans to reduce the overflows. These plans are likely to cost billions of taxpayer dollars to implement. However, plans submitted by the Indianapolis and Fort Wayne suggest that the massive investment in controls may only be enough to offset new flows that resulted from urban sprawl since the 1950s. IDEM's long-standing practice of ignoring the cumulative impact of growth on combined sewer systems undermines our hope of waters that children can safely play around.

IDEM needs to stop making the problem worse! New housing developments and commercial operations need to ensure that they do not increase the sewage overflows. They can do this by holding their sewage until it can be safely treated or finding enforceable reductions in rainfall connections elsewhere in the system. The proposed amendments accomplish that while providing the city and the developer with the flexibility to determine how to achieve that goal.

The Indianapolis Situation:

- Combined sewer overflows occur 65 days a year with a total of 6,964 million gallons released to the White River each year.
- More than 1,000 million gallons are discharged over 31 days a year because the treatment plants cannot handle the flow during typical wet weather.
- **In 1999**, IDEM authorized **114 new sewage connections** to the city's treatment plants for a total new authorized flow in 1999 alone was 3.5 million gallons a day. That represents **100 million more gallons of new annual overflows approved in one year alone.**

The Fort Wayne Situation:

- Combined sewer overflows occur 84 days a year with a total of about 2,500 million gallons released.
- More than 1,500 million gallons are discharged over 12 days a year because the treatment plants cannot handle the flow during typical wet weather.
- **In 2000 and the first quarter of 2001**, IDEM authorized 57 **new sewage connections** to the city's treatment plants for a total new authorized flow of more than 1.7 million gallons a day. That represents more than **20 million more gallons of new annual overflows approved in one year alone.**

The Details:

106 communities in Indiana have combined sewer systems. Pursuant to EPA regulations, these communities must ensure that these combined sewer discharges do not violate Indiana's water quality standards. Yet, no one doubts that discharging raw sewage into an Indiana river will violate the standards.

The sewage in our streams that results from these overflows causes bacteria levels hundreds of times in excess of the water quality standards for E. coli. And E. coli is only an indicator for a broad array of pathogenic bacteria and viruses that can cause infectious diseases in human. Some of these diseases may be life threatening to the very young the elderly and to those with compromised immune systems. These infectious diseases may be spread to those who have had no contact with contaminated water but have had contact with those originally infected from the water. The sewage also threatens aquatic life. Modeling by the City of Indianapolis indicates that a summer rain can create a "dead zone" by downtown Indianapolis where dissolved oxygen levels are nearly zero for several hours. Most fish cannot survive under these conditions.

While combined sewer systems are a legacy of shortsighted engineering decision made in the first half of the 20th Century, our shortsightedness continues. As designed, CSOs were able to handle a rainfall of approximately 0.75". The sewer systems were "oversized" to allow space for storm water. However, municipalities continued to accept new sanitary sewage that used up the space reserved for storm water. As a result, many combined sewer systems overflow with only a 0.1" rainfall. Cities and towns failed to recognize that sewers are a part of a community's infrastructure just as roads and electricity.

Thanks to a mandate by EPA and long-delayed recognition by IDEM, communities are now confronted with costs to upgrade sewer systems that total well over $4 billion. Indianapolis alone is looking at a bill of $1.6 billion to reduce the number of overflows to four per year. They are finally forced to look at the long-term prospects for sewer collection and treatment capacity.

Despite these significant costs, regular exposure of our residents to dangerous pathogens, and periodic fish kills, municipalities and IDEM continue to authorize more sewage discharges into overloaded collection and treatment systems. They reason that the capacity of a system should only be based on dry weather flows. Without explanation, they ignore the impact of wet weather events – despite the threat to public health. While each new discharge into the sewer system

only incrementally increases the overflows, the aggregate impacts are devastating, especially to the integrity of our inner city and urban neighborhoods that bear the brunt of CSOs.

In one recent example, IDEM authorized the construction of a three mile long pressurized sewer system that flowed into a sanitary sewer system, then into a combined sewer system, and finally into a treatment plant. The treatment plant was so overloaded that it forced an estimated one billion gallons of sewage into a river that is part of the Great Lakes basin. Even when the plant had available capacity, sewage that was stored in a temporary holding pond was allowed to flow to the river instead of being returned to the treatment plant. IDEM did not require that the city install a pump to address the problem despite a permit condition that requires that the discharge of excessive pollutants be minimized.

IDEM authorized the increased flow despite the presence of an unresolved EPA administrative order against the municipality regarding the operation of the system. The City accepted the flow despite no legal mandate to do so. The 46-home development was miles outside the city limit. And the pressurized main precluded any connection by residents bordering the sewer who have failing septic systems. The municipalities top priority should be to stop the failing septic systems – not encouraging more development that only makes the system worse.

In essence, every week, IDEM approves permits that make the CSO problem worse. That runs counter to common sense and the plain language of the law.

IDEM has refused to provide an explanation for its decisions. Several developers have come to IDEM's aid and suggested distorted readings of the regulations to support their development. Therefore, the citizens signing the attached petition believe that the proposed amendments are needed to make it absolutely clear that we must not make the situation worse. Developers can find alternative methods to handle their sewage. They may install equipment to store the sewage until the sewage collection and treatment system has available capacity. Or they may find permanent offsets through source separation that reduces other sewage or rainwater influent into the sewer system.

What does the proposal require?

The proposal makes it clear that:

1. IDEM has a responsibility to verify the accuracy of the evidence it receives regarding the potential impact on the sewer system. Developers have argued that IDEM must accept the evidence even if IDEM has contradictory evidence in its possession or has reason to believe it is false or inaccurate.
2. Capacity is based on the treatment and the collection system. A municipality cannot claim it has capacity by ignoring massive overflows from a collection system that is incapable of conveying the sewage to the plant.
3. Capacity is based on wet weather events not just on the most favorable conditions. While not explicitly giving municipalities any guidance on the conditions to use, IDEM knowingly accepts capacity certifications based solely on dry weather conditions.
4. Sets an upper limit of a five-year rainfall to evaluate wet weather conditions. A five-year rainfall is predicted to occur only once every five years. This upper limit provides a common standard to evaluate the situation.

Petition for Proposed Rulemaking to Stop Development That Makes Combined Sewer Overflows Worse

Prepared on June 17, 2001

My signature below indicates that I have read the proposed amendment to stop housing and commercial developments that make combined sewer overflows worse. I believe that the amendment is essential to begin to get a handle on the problem of sewage in our streams that jeopardizes public health and the environment.

	Signature	Printed Name	Address
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Proposed Amendments to 327 IAC 3-6-7 and 327 IAC 3-6-4

New portions are bold typeface. Portions to be removed are in strike-out typeface.
Prepared on April 3, 2001

The citizens identified in the attached petition propose the following amendments to water pollution control regulations.

327 IAC 3-6-7: Issuance Requirements for Sanitary Sewer Construction Permits

(a) The application for any construction permit required by this article shall be denied unless the applicant submits evidence of the following:

(1) The peak daily flow rate, in accordance with section 11 of this rule generated in the area that will be collected by the project system, will not cause overflowing or bypassing in the collection system from locations other than NPDES authorized discharge points;

(2) Sufficient capacity exists in the receiving **collection system and** water pollution treatment/control facility to **collect and** treat the additional daily flow **in all expected wet and dry weather conditions except during a wet weather event that is predicted to occur no more often than once every five years.**

(3) The receiving water pollution treatment/control facility will remain in compliance with applicable NPDES permit effluent limitations.

(4) The sanitary sewer or collection system that is the subject of the construction permit application is to connect to a water treatment/control facility that has been completed and put into operation.

(5) The proposed collection system does not include new combined sewers or a combined sewer extension to existing combined sewers.

(b) If the department has any information in its possession that contradicts the evidence described in (a), the department must verify the accuracy of the information and deny the construction permit if the evidence is not determined by the department to be accurate.

327 IAC 3-6-4: Regarding Certifications

(a) Certifications complying with the required statements as set forth in subsections (b) and (c) shall be submitted with an application, plan, or specification for construction permit approval under this rule.

(b) A professional engineer or a registered land surveyor, in conformance with IC 25-31-1 and 327 IAC 3-2.1-3(a), must sign, seal, and date the application making the following certification: "I certify under penalty of law that the design of this project will be performed under my direction or supervision to assure conformance with 327 IAC 3 and that the plans and specifications will require the construction of said project to be performed in conformance with 327 IAC 3-6. I certify that the peak daily flow rates, in accordance with 327 IAC 3-6-11 generated in the area that will be collected by the proposed collection system that is the subject of the application, plans, and specifications, will not cause overflowing or bypassing in the same subject proposed collection system from locations other than NPDES authorized discharge points. I certify that the proposed collection system does not include new combined sewers or a combined sewer extension to existing combined sewers. I certify that the ability for this collection system to comply

with 327 IAC 3 is not contingent on water pollution treatment/control facility construction that has not been completed and put into operation. I certify that the design of the proposed project will meet all local rules or laws, regulations, and ordinances. The information submitted is true, accurate, and complete to the best of my knowledge and belief. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(c) The authorized representative of the town, city, sanitary district, or any entity that has jurisdiction over the proposed collection system must sign and date the application and issue the following certification: "I certify that I have reviewed and understand the requirements of 327 IAC 3 and that the sanitary collection system proposed, with the submission of this application, plans, and specifications, meets all requirements of 327 IAC 3. I certify that the daily flow generated in the area that will be collected by the project system will not cause overflowing or bypassing in the collection system from locations other than NPDES authorized discharge points ~~and~~**. I certify** that there is sufficient capacity in the receiving **collection system and** water pollution treatment/control facility to **collect and** treat the additional daily flow **in all expected wet and dry weather conditions except during a wet weather event that is predicted to occur no more often than once every five years** and remain in compliance with applicable NPDES permit effluent limitations. I certify that the proposed average flow will not result in hydraulic or organic overload **of the collection or treatment system**. I certify that the proposed collection system does not include new combined sewers or a combined sewer extension to existing combined sewers. I certify that the ability for this collection system to comply with 327 IAC 3 is not contingent on water pollution/control facility construction that has not been completed and put into operation. I certify that the project meets all local rules or laws, regulations, and ordinances. The information submitted is true, accurate, and complete to the best of my knowledge and belief. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."